

RULE 16: GENERAL CRIMINAL

16.1 CRIMINAL COMPLAINTS—TIME OF FILING

(a) All criminal complaints charging in-custody defendants shall be filed with the clerk of the court no later than 10:00 a.m. on the morning of the day the defendant is to appear. Failure to file a complaint pursuant to the time requirements stated shall result in the arraignment being held on the next court day.

(b) All criminal complaints charging defendants not in custody shall be filed no later than four (4) court days prior to the defendant's appearance. *(Effective January 1, 2007; As amended, eff 01/01/08; As amended, eff 01/01/09)*

16.2 ARRAIGNMENT

~~(a) Unless ordered by the court, at the defendant's first appearance for arraignment, the defendant shall enter a plea to the information, complaint or indictment. Entry of a plea will not constitute a waiver of the defendant's right to demur to the accusatory pleading or otherwise attack it as provided by law.~~

~~(b)~~(a) At the arraignment the Master Calendar Judge shall assign cases to a judge and department for all purposes through completion unless the assigned judge is absent, disqualified or otherwise unavailable, necessitating a transfer to another judge and department. *(Effective January 1, 2007; As amended, eff 01/01/10)*

~~16.3—SETTINGS~~

~~Unless ordered by the court, at the arraignment the court shall set the dates for:~~

~~(a) The trial, giving priorities as required by law;~~

~~(b) A trial readiness conference;~~

~~(c) The last date to file and serve motions and responses and any hearing thereon. All pretrial motions will be set for hearing on or before the date set for the trial readiness.~~
(Effective January 1, 2007; As Amended, eff. 01/01/2015)

~~16.4—MOTIONS~~

~~(a) All motions filed in criminal cases shall be made in writing, unless the court, for good cause shown, permits an oral motion to be heard.~~

~~(b) All written motions shall be accompanied by a statement of facts and a memorandum of points and authorities. Reference to a case name alone is not acceptable. The absence of a memorandum of points and authorities may be construed as an admission that the motion has no merit and a cause for denial of the motion.~~

~~(c) — Failure to serve and file papers in opposition to a motion, other than an ex parte application, may at the court's discretion, be deemed a waiver of any objections and an admission that the motion or other application is meritorious. A party who has not timely filed written opposition to a noticed motion may, at the court's discretion, be precluded from offering oral argument at the hearing.~~

~~(d) — The court hereby incorporates by reference Rule 4.111 of the California Rules of Court regarding pretrial motions except as modified herein. In the interest of judicial efficiency and respect for jury panel members any party filing a motion for which an evidentiary hearing outside the presence of a jury is required shall, at the time of filing, also calendar a hearing setting conference to be held at least fourteen (14) calendar days before the date set for trial.~~

~~(e) — In the event that the moving papers are not timely filed for the assigned hearing date without good cause demonstrated, the motion may be deemed waived by the moving party.~~

~~(f) — If any authority other than California cases, statutes, constitutional provisions or state or local rules is cited in any motion or memorandum of points and authorities, a copy of the cited authority shall be attached to the papers in which the authorities are cited and tabbed as an exhibit. If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and tabbed. (Effective January 1, 2007, As amended, eff 01/01/08)~~

16.5 — MOTIONS TO SUPPRESS EVIDENCE

~~A Motion to Suppress Evidence filed pursuant to Penal Code Section 1538.5 shall specify what is sought to be suppressed and shall set forth specific grounds and legal bases that support the motion. (Effective January 1, 2007)~~

16.6 — MOTION DEADLINES

~~(a) — Unless otherwise ordered by the court, all motions (except motions in limine for trial) must be filed and served at least fifteen (15) days prior to the date set for hearing. Written opposition shall be filed and served at least five (5) days prior to the date set for hearing.~~

~~(b) — Any request to extend motion deadlines shall be made in writing and shall be accompanied by a written declaration setting forth facts which would justify such request.~~

~~(b) — Unless otherwise ordered by the court, all motions in limine for all misdemeanor and felony trials shall be in writing and filed at least three (3) court days before the first date set for trial. Written opposition shall be filed at least one (1) court days before trial. (Effective January 1, 2007; As amended, eff 01/01/10)~~

16.7 — CONTINUANCES

~~(a) — Absent good cause, no case shall be continued for arraignment or plea for a period in excess of fourteen (14) calendar days.~~

~~(b) — No case shall be continued for preliminary hearing or trial except upon good cause and compliance with Penal Code Section 1050, unless otherwise required by law.~~

~~(c) — Motions to continue shall be in writing and shall be filed and served on all parties at least two (2) court days before the date set for trial. The motions shall be supported by declarations with competent evidence of the need for a continuance. (Effective January 1, 2007)~~

~~16.8 CONTINUANCE OF CASES SET FOR TRIAL~~

~~Motions to continue a criminal trial are disfavored and shall be denied unless the moving party, pursuant to Penal Code Section 1050, establishes that the interests of justice require a continuance. (Effective January 1, 2007)~~

~~16.9 — DISCOVERY~~

~~Discovery in criminal actions is reciprocal in nature and is governed by all applicable laws including Penal Code Sections 1054 through 1054.7. There shall be a standing order in each criminal action requiring all parties and their attorneys to fully comply with Penal Code Sections 1054 through 1054.7, inclusive. The order is deemed to have been made and communicated to all counsel at the time of arraignment. (Effective January 1, 2007)~~

~~16.10 — PROPOSED PATTERN JURY INSTRUCTIONS~~

~~In criminal jury trials, the instruction forms contained in the latest edition of Judicial Council of California, Criminal Jury Instructions (CALCRIM) shall be used whenever applicable.~~

~~Proposed pattern jury instructions that have been modified by a party shall specify in parentheses or other appropriate manner the respect in which the instructions have been modified. Any proposed instruction not taken from CALCRIM shall indicate the source or authority of the proposed instruction. (Effective January 1, 2007)~~

16.311 CALENDARING REQUESTS

~~All~~ Requests to place matters on calendar shall be made in writing with notice to all parties and must include a factual and legal basis for the request and the remedy sought. Requests must be received by the clerk at least three (3) court days before the hearing date requested. Matters shall not be set by the Clerk fewer than the three (3) court days

from the requested hearing date without prior authorization from the Judge presiding over the matter. *(Effective January 1, 2007; As amended, eff 01/01/10)*

16.~~412~~ APPEARANCES

Unless excused by Penal Code Section 977 all parties whose appearance is required shall appear in the department assigned on the dates and at the times ordered. However, the judge presiding in the department where a matter has been assigned may give relief from this rule for good cause or in the court's discretion. If counsel and required parties fail to appear without first receiving court permission, the court may impose sanctions. *(Effective January 1, 2007; As amended, eff. 01/01/10)*

16.~~513~~ PLEA FORMS

Unless excused by the court, whenever a defendant intends to enter a guilty or no contest plea to a felony or misdemeanor charge, a written plea form shall be completed and submitted to the court. Only the plea forms currently approved by the Judges of the Yolo Superior Court shall be used.

It is the duty of all involved counsel to inform the court at the time a plea is submitted whether any proposed plea in the matter has previously been rejected by another judge, even if submitted under a different caption or case number. *(Effective January 1, 2007)*

16.~~614~~ VIOLATION OF PROBATION DECLARATIONS AND HEARINGS

- (a) Violation of probation declarations shall be submitted for filing at least five (5) court days before the requested hearing date.
- (b) A probation violation hearing maybe set before, during or after the trial of any pending criminal charges. A probation violation hearing may also be conducted at the same time as the preliminary examination of pending felony charges, if so ordered by the court. *(Effective January 1, 2007; As amended, eff 01/01/09)*

16.~~715~~ RESPONSIBILITIES OF RELIEVED COUNSEL OF RECORD

Any counsel retained or appointed on a criminal case who either (1) moves to be relieved, or (2) declines to accept continued representation of a client in the superior court shall appear in court with all discovery and other normal contents of a file and, upon order of the court, convey the same to the successor attorney. In addition, if it appears to counsel that the Yolo County Public Defender is likely to be appointed, counsel shall give five (5) court days notice to the Yolo County Public Defender, in writing, of the date of the court appearance where counsel expects to be relieved or to decline further representation. *(Effective January 1, 2007)*

16.~~816~~ PRE-TRIAL CONFERENCES IN MISDEMEANORS

- (a) Prior to appearing at any pre-trial conference in a misdemeanor case, counsel shall have ~~completed discovery and investigation~~, conferred with one another, and communicated any offer;
- (b) Pre-trial conferences may be held in open court or in chambers, at the court's discretion;
- (c) Counsel shall be prepared to discuss fully the evidence and issues with the court;
- (d) Cases not settled at the pre-trial conference will be set for trial at the earliest available date. *(Effective January 1, 2007; as amended, eff. 01/01/13)*

16.917 PURPOSE OF TRIAL READINESS CONFERENCES

The purpose of trial readiness conferences is to consider the negotiated resolution of pending cases and to confirm trials. In the event there are insufficient judges or courtrooms available to try all confirmed cases, a determination regarding the priority of scheduled trials will be made. Prior to the conference counsel shall have completed discovery and investigation. ~~At these the trial readiness~~ conferences, attorneys shall inform the court of any need for interpreter services and other special accommodations.

Attendance at the criminal trial readiness is mandatory in felony cases for the defendant, counsel for the defendant and a prosecuting attorney with full authority to dispose of the case. The Court may require a defendant charged with a misdemeanor only to attend such a conference upon a finding of good cause based on the circumstances of a particular case. Prior to the conference the attorneys shall discuss the case to determine the possibility of disposition without trial. *(Effective January 1, 2007; As amended, eff. 01/01/10; As amended, eff. 01/01/13; As amended, eff. 01/01/2015)*

~~16.18 RESOLUTION OF CASES SUBSEQUENT TO TRIAL READINESS CONFERENCE~~

~~Except in unusual circumstances, after the trial readiness conference the defendant will not be permitted to plead guilty to less than the principal charges.~~ *(Effective January 1, 2007; As amended, eff. 01/01/2015)*

16.109 REAL PROPERTY BONDS

In order to post a real property bond, the following procedure must be followed:

- (a) A notice of hearing pursuant to Penal Code Section 1298 shall be filed. It shall also be served the District Attorney and County Counsel. Compliance with the notice provisions of Rule 4.111 of the California Rules of Court is required.
- (b) The notice of hearing shall be accompanied by an application for a real property equity bond, a declaration of the real property owners, an executed promissory note, a deed of trust made payable to “County of Yolo: as beneficiary and “Court Executive Officer” as trustee, and a proposed order approving the property bond and order for release of the defendant.
- (c) In addition, the following must be filed with the original notice of hearing:
 - (1) An appraisal report of the fair market value of the property, dated not more than 45 days prior to filing the application for the property bond and completed by a qualified real estate appraiser;
 - (2) A current preliminary title report, prepared by a California title company, that includes a legal description of the property, the address or location of the property, and a listing of all encumbrances, and is dated no more than 30 days prior to the application for the property bond; and,
 - (3) Proof of insurance coverage of the property, sufficient to pay all encumbrances, which insurance must include “County of Yolo” as a loss payee.
- (d) An order approving the property bond and order for release of the defendant shall not be signed unless the court finds that the equity in the property is at least twice the value of the amount of bail, and only upon delivery to the court of the recorded deed of trust. *(Effective January 1, 2009)*

~~16.20—COPY FEES~~

~~Fees shall be charged to local, out-of-county, and out-of-state governmental entities for copies and/or certification of documents contained within a criminal file in accordance with the court’s fee schedule. *(Effective January 1, 2010)*~~

~~16.21—REIMBURSEMENT FOR CRIMINAL DEFENSE SERVICES~~

- ~~(a) In setting the fee to be reimbursed for criminal defense services under Penal Code section 987.8, there shall be a rebuttable presumption that the fee is that set forth in the Master Fee Schedule adopted and from time to time amended by the Yolo County Board of Supervisors. The rebuttable presumption shall not apply to:~~
 - ~~(1) Any adult case that results in a sentence of six months or more in the county jail or a commitment to state prison;~~
 - ~~(2) Any person whose fee is waived, in whole or in part, by Yolo County Collection Services (“YCCS”) after it conducts a financial evaluation and concludes that the person is unable to pay, in whole or in part, for the services of court-appointed counsel;~~
 - ~~(3) Any person whom the Court determines is unable to pay for the services of court-appointed counsel; or~~

~~(4) Any case in which the Court determines that the presumption should not apply.~~

~~(b) The Court designates YCCS as the county officer responsible for making an inquiry into the ability of the defendant to pay for criminal defense services and making a recommendation to the Court as to whether the defendant shall be ordered to pay the cost. Upon the Court's appointment of counsel, each person (in the case of juveniles and conserved persons, their parent(s) or legal guardian(s)) for whom counsel is appointed is directed to appear before YCCS to determine their financial eligibility to receive these services and for the assessment and scheduling of payment by those deemed both financially eligible and capable of paying the presumptive fees set forth in the Master Fee Schedule.~~

~~(c) Every financially able defendant shall be assessed a registration fee in the maximum amount set forth in Penal Code section 987.5. (Effective July 1, 2010)~~